

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 337 OF 2004

IN

SUMMARY SUIT NO. 2030 OF 1996

The Tata Tea Limited ..Plaintiffs

versus

The Export Credit and Guarantee

Corporation of India Ltd. ..Defendants

Mr. Sandeep Parikh with Mr. A. Siwach i/b. M/s.

Amarchand & Mangaldas & Suresh A. Shroff & Co. for
the Plaintiffs.

Mr. B. Shroff i/b. M/s. M. K. Ambalal & Co. for the
Defendants.

CORAM : D. G. DESHPANDE, J.

DATE : 24TH SEPTEMBER, 2004.

P.C. :

1. Heard Counsel for the Plaintiffs and Defendants.

2. This notice of motion is taken out by the plaintiffs directing the defendants to pay the amount. The notice of motion is based according to the plaintiffs on a Judgment of the Supreme Court where similar defences raised by the defendants were

nullified by the Judgment of the Supreme court in a matter arising from the decision of the Calcutta High Court. Counsel for the defendants rightly urged that when unconditional leave has been granted to them, such a notice of motion is not maintainable otherwise it will frustrate the order in the Summons for Judgment and nullify the order. Counsel for the plaintiffs could not show any provision of law in which such a notice of motion could be taken out. Therefore notice of motion is dismissed.
